

### **REMARKS/ARGUMENTS**

Claims 1-36 were in the application as filed. Claims 6, 7, 24, and 25 were previously withdrawn from further consideration pursuant to the Examiner's requirement for restriction.

Claims 1-5, 8-23, and 26-36 stand rejected. Claim 37 has been added.

Applicant believes the amendments made herein add no new matter. Any amendment to the claims which has been made in this Amendment and Response, and which has not been specifically noted to overcome a rejection based on prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to be attached thereto. Reconsideration and reexamination of the application is respectfully requested in view of the amendments and the following remarks.

#### **Rejection Under 35 U.S.C. §102(b)**

Claims 1, 12, 13, 18, 19, 30, and 36 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 4,488,778 to Polzer et al. The rejection is traversed.

Polzer '778 discloses an external vehicle rearview mirror 1 having a glass support plate 9 for supporting the reflective element 9.9, and a mirror support 5 comprising a fastening plate 5.1 and a clamp ring 7. The clamp ring 7 is provided with four curved circumferentially distributed grooves 7.8. The glass support plate 9 has four spaced, T-shaped extensions 9.3 adapted for insertion into the grooves 7.8. When the glass support plate 9 is rotated relative to the clamp ring 7, the spaced extensions 9.3 are locked into the grooves 7.8, thereby fixing the reflective element 9.9 to the fastening plate 5.1.

Polzer '778 also discloses a mirror housing 3 having several integral supports 3.4, 3.5 arranged near the center to which the mirror support 5 is fastened. As illustrated in Figure 2, the mirror support 5 comprises a ball joint assembly. The fastening plate 5.1 is provided with a socket-type receptacle which receives a ball extending orthogonally from a mounting plate. The

mounting plate is attached to the supports 3.4, 3.5 by fasteners passing through the mounting plate into the supports 3.4, 3.5. The glass support plate 9 is rotatably attached to the housing 3 through the mirror support 5.

The Examiner identifies the housing 3 as a mounting bracket, and the supports 3.4, 3.5 along with "the screws of element 5" as an interlocking fastener assembly. The Examiner also identifies the supports 3.4, 3.5 as a first array of interlocking fasteners and "the screws of element 5" as a second array of interlocking fasteners.

The claimed invention is not anticipated under §102 unless each and every element of the claimed invention is found in the prior art. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 231 USPQ 81, 90 (Fed. Cir. 1986). To anticipate, a single reference must teach each and every limitation of the claimed invention. *Eolas Technologies Inc. v. Microsoft Corp.*, 399 F.3d 1325, 1335; 73 U.S.P.Q.2D (BNA) 1782 (Fed. Cir. 2005). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The rejection fails to satisfy these standards.

Claim 1 calls for either the reflective element assembly or the mounting bracket to be secured to either the mounting bracket or the reflective element assembly without rotation of the reflective element assembly relative to the mounting bracket. In other words, the reflective element assembly, i.e. the glass support plate 9 and mirror glass 9.9, must be secured to the mounting bracket, i.e. the mirror housing 3, without rotation of one relative to the other. Claim 1 also calls for a second array of interlocking fasteners to interlock with a first array of interlocking fasteners. The first array of interlocking fasteners must be attached to and extend away from either the reflective element assembly or the mounting bracket, and the second array of interlocking fasteners must be attached to and extend away from either the mounting bracket or the reflective element assembly. Polzer '778 does not disclose these limitations.

Initially, there is nothing in Polzer '778 that indicates that the mounting plate is attached to the supports 3.4, 3.5 by screws. The description of the invention does not identify the

fasteners as screws. Figure 2 does not identify the fasteners as screws. Indeed, the fasteners could very well be rivets or some type of integrated fastener extending from the supports 3.4, 3.5 and deformed by heat or force to secure the mounting plate to the supports 3.4, 3.5.

Polzer '778 does not disclose mounting the glass support plate 9 and mirror glass 9.9 to the mirror housing 3 without rotation. If, as asserted by the Examiner, the fasteners of element 5 comprise a second array of interlocking fasteners, it would be impossible to attach to the mounting plate to the supports 3.4, 3.5 after the glass support plate 9 and mirror glass 9.9 are attached to the mounting plate, since the glass support plate 9 and mirror glass 9.9 would shield the supports 3.4, 3.5 and interfere with the use of a tool to attach the fasteners to the supports 3.4, 3.5. Thus, the mounting plate must be attached to the supports 3.4, 3.5 with the fasteners prior to the attachment of the glass support plate 9 and mirror glass 9.9 to the mirror housing 3. The only way disclosed in Polzer '778 of attaching the glass support plate 9 and mirror glass 9.9 to the mirror housing 3 after the mounting plate has been attached to the supports 3.4, 3.5 is by the use of the previously described clamp ring 7, and rotation of the glass support plate 9 relative to the clamp ring 7.

Moreover, the Examiner asserts that the supports 3.4, 3.5 comprise the first array of interlocking fasteners. Thus, the supports 3.4, 3.5 attach to and extend away from the housing 3. The Examiner asserts that the fasteners of element 5 comprise the second array of interlocking fasteners. Thus, the fasteners of element 5 must attach to and extend away from the glass support plate 9 and mirror glass 9.9. However, the fasteners of element 5 do not attach to or extend away from the glass support plate 9 or the mirror glass 9.9. The fasteners of element 5 attach to the mounting plate and the supports 3.4, 3.5. Furthermore, the fasteners of element 5 extend away from the supports 3.4, 3.5. No rational conclusion can be drawn that the fasteners of element 5 attach to and extend away from the glass support plate 9 and the mirror glass 9.9. Thus, Polzer '778 does not teach each and every limitation of the invention of claim 1, and Polzer '778 does not disclose an identical invention in as complete detail as is shown in claim 1. Claim 1 is patentable over Polzer '778.

Claims 12, 13, and 18 depend, directly or indirectly, from claim 1, and are patentable over Polzer '778 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 1, 12, 13, 16, and 18.

Claim 19 calls for a motor vehicle comprising at least one mirror system for providing a rearward view to the operator of the motor vehicle. The mirror system comprises identically the mirror assembly of claim 1.

For the same reasons as discussed above that claim 1 is patentable over Polzer '778, claim 19 is patentable over Polzer '778.

Claims 30 and 36 depend from claim 19, and are patentable over Polzer '778 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 19, 30, and 36.

Claim 37 has been added. Claim 37 calls for a mirror assembly for a motor vehicle comprising a reflective element assembly with a mirror glass, a tilt mechanism for vertical and horizontal tilting of the reflective element assembly in order to adjust the rearward field of view provided by the mirror glass, a mounting bracket, and an interlocking fastener assembly. The mirror glass is coupled with a mounting panel. The mounting bracket mounts the tilt mechanism to the motor vehicle. The interlocking fastener assembly removably attaches the mounting panel to the tilt mechanism, and comprises a first array of interlocking fasteners attached to and extending away from a first one of the mounting panel and the tilt mechanism, and a second array of interlocking fasteners attached to and extending away from a second one of the mounting panel and the tilt mechanism. The second array is configured to interlock with the first array and to secure the first one of the mounting panel and the tilt mechanism to the second one of the mounting panel and the tilt mechanism without rotation of the reflective element assembly relative to the tilt mechanism.

Claim 37 is patentable over Polzer '778 because each and every element of claim 37 is not found in Polzer '778. Claim 37 calls for limitations found in claim 1 which are not disclosed in Polzer '778. Furthermore, claim 37 calls for an interlocking fastener assembly for removably attaching the mounting panel to a tilt mechanism. The interlocking fastener assembly comprises a first array of interlocking fasteners attached to and extending away from a first one of the mounting panel and the tilt mechanism, and a second array of interlocking fasteners attached to and extending away from a second one of the mounting panel and the tilt mechanism. The second array of interlocking fasteners is configured to interlock with the first array and to secure the first one of the mounting panel and the tilt mechanism to the second one of the mounting panel and the tilt mechanism without rotation of the reflective element assembly relative to the tilt mechanism.

Polzer '778 does not disclose an interlocking fastener assembly for removably attaching the mounting panel to a tilt mechanism. Furthermore, Polzer '778 does not disclose an array of interlocking fasteners attached to and extending away from a tilt mechanism. Thus, claim 37 is patentable over Polzer '778.

Claims 1, 2, 8-20, and 26-36 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,355,255 to Assinder. The rejection is traversed.

Assinder '255 discloses a review mirror system comprising a mirror glass 34 attached to a mounting plate 32 which is, in turn, attached to a mounting plate 20. The mounting plate 20 is provided with socket formations 18, 22, 30 adapted for engagement with spherical formations 16, 24. The spherical formations 16, 24 are attached to a support pillar 14 and jackscrew 26, respectively, extending toward the mounting plate 20 from the interior of a mirror housing 10. The mounting plate 20 can be attached to the mounting plate 32 through the engagement of L-shaped projections 48, 50 attached to the mounting plate 32 with a resilient beam 60 extending along one edge of the mounting plate 20.

Claims 1, 2, 8-20, and 26-36 are not anticipated by Assinder '255. The Examiner asserts that the interlocking fastener assembly comprises elements 18, 22, 30, and elements 16, 24. The first array of interlocking fasteners comprises element 16, 24. The second array of interlocking fasteners comprises element 18, 22, 30.

Elements 18, 22, 30, and 16, 24 do not comprise an array. The American Heritage<sup>®</sup> Dictionary of the English Language, 4th Ed., 2000, defines "array" as:

"An orderly, often imposing arrangement.... An impressively large number, as of persons or objects.... *Mathematics*...A rectangular arrangement of quantities in rows and columns, as in a matrix."

The Application uses "array" in a manner consistent with this definition. For example, the Detailed Description refers to "an ordered, regularly-spaced array" of fastening elements. *See, U.S. Patent Application Publication No. US 2004/0109249, para. 0029, ln. 4-5, 12.* The Drawings also illustrate the fastening elements organized in 10 or 11 rows and 10 or 11 columns. *Id., Figures 2, 4-6, 8.*

Only three fastening elements are disclosed in Assinder '255, which is an insufficient number to constitute an array, both by definition and as used in the Application. Thus, claim 1 is patentable over Assinder '255.

Claims 2 and 8-18 depend, directly or indirectly, from claim 1, and are patentable over Assinder '255 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 1, 2, and 8-18.

For the reasons discussed above, the invention of claim 19 is patentable over Assinder '255 because Assinder '255 does not disclose an array of fastening elements. Because claims 20, 26-36 depend, directly or indirectly, from claim 19, they are patentable over Assinder '55 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 19, 20, and 26-36.

Claim 37 is patentable over Assinder 255 because Assinder '255 does not disclose an interlocking fastener assembly for removably attaching the mounting panel to a tilt mechanism, comprising an array of interlocking fasteners attached to and extending away from a tilt mechanism. Thus, claim 37 is patentable over Assinder '255.

**Rejection Under 35 U.S.C. §103(a)**

Claims 2-5, 8-11, 14, 15, 19-23, 26-29, 32, and 33 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,347,872 to Brechbill et al.. The rejection is traversed.

Brechbill '872 discloses a system for fastening a support plate 26 holding a mirror glass 13 to a mirror positioning motor 20 using slots 24 and posts 22, which are engaged by sliding the slots 24 relative to the posts 22.

The Examiner asserts that it would have been obvious to modify the mirror positioning motor of Brechbill '872 to include a tilt actuator.

The standards for a finding of obviousness must be strictly adhered to. Simply citing one or more prior art references that illustrate different facets of the invention and then concluding that it would be obvious to combine the references to create the applicant's invention is wholly inadequate.

A claimed invention is unpatentable if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art....The ultimate determination of whether an invention would have been

obvious under 35 U.S.C. §103(a) is **a legal conclusion based on underlying findings of fact.**<sup>1</sup>

A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field....Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."

Most if not all inventions arise from a combination of old elements....Thus, every element of a claimed invention may often be found in the prior art....However, **identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention**....Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, **there must be some motivation, suggestion or teaching of the desirability of making the specific combination** that was made by the applicant....Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference.

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<sup>1</sup> The underlying factual inquiries include (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; and (3) the differences between the claimed invention and the prior art. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 15 L. Ed. 2d 545, 86 S. Ct. 684 (1966).



The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved....In addition, the teaching, motivation or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references....The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art....Whether the Patent Office Examiner relies on an express or an implicit showing, **the Examiner must provide particular findings related thereto....Broad conclusory statements standing alone are not "evidence."**

*In Re Werner Kotzab*, 217 F.3d 1365; 55 U.S.P.Q.2d (BNA) 1313 (Fed. Cir. 2000)(citations omitted)(emphasis added).

The Examiner has failed to identify any motivation, suggestion, or teaching of the desirability of modifying Brechbill '872 to arrive at Applicant's invention. There has been no statement identified in Brechbill '872, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the teachings of Brechbill '872, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner has failed to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of modifying Brechbill '872. Rather, the Examiner has simply relied upon "broad conclusory statements standing alone," which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicant's invention.

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Even if the modification of Brechbill '872 were proper, the combination still would not reach Applicant's invention. Brechbill '872 does not disclose interlocking fasteners that extend away from both the mounting bracket and the reflective element assembly as called for in claims 2-5, 8-11, 14, 15, 19-23, 26-29, 32, and 33, since Brechbill '872 discloses the use of slots, which do not extend away from either a mounting bracket or a reflective element assembly in Brechbill '872.

Applicant requests withdrawal of the rejection, and the allowance of claims 2-5, 8-11, 14, 15, 19-23, 26-29, 32, and 33.

#### CONCLUSION

For the reasons discussed above, all claims in the Application are allowable over the prior art of record. Prompt notification of allowability is respectfully requested. If there are any outstanding issues which the Examiner feels may be resolved by way of telephone conference, the Examiner is cordially invited to contact the undersigned to resolve these issues.

Respectfully submitted,

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